IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 310 OF 1988.

The Commissioner of Income-Tax ... Applicant.

V/s.

M/s.Associated Tyre Machinery
Co.Ltd. ... Respondent.

Dr.P. Daniel for the applicant-revenue.

Mr.P.C.Tripathi for the respondent-assessee.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 7th July 2005.

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961 ("Act" for short), the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the assessee was entitled to development rebate on technical knowhow in assessment year 1979-80 though the assets were installed in assessment year 1975-76?

2. Whether on the facts and in the circumstances of the case, the assessee was entitled to investment allowance on machinery in assessment year 1979-80 though the machinery was installed in earlier years?

2. Heard rival parties. Perused reference proceedings.

3. Both the questions are squarely covered by the judgment of this Court in the case of **C.I.T. v. International Tractor Co. of India Ltd.**, (1991) 189 ITR 798. The questions relate to the assessment year 1979-80. Learned counsel for the parties agreed that in view of amendment to section 34(3)(a) of the Act, with retrospective effect from 1st April, 1962, both questions are required to be and hereby answered in the affirmative i.e. in favour of the assessee and against the revenue.

4. We answer both the questions accordingly. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**